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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/625,252

07/23/2003

Glen J. Anderson

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06/19/2006

GATEWAY, INC.

ATTN: Patent Attorney

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EXAMINER

DUNHAM, JASON B

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 06/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/625,252

Applicant(s)

ANDERSON ET AL.

Examiner

Jason B. Dunham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/23/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because of uneven shading of objects within the figures making them difficult to read. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1- 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roth (U.S. Patent No. 6,285,987) in view of Kiely (U.S. Patent Application Publication No. 2002/0077960).

Referring to claim 1. The combination of Roth and Kiely discloses a method for providing one or more real-time marketing opportunities to one or more third parties during a sales transaction between a customer and a seller for purchasing a product, the real-time marketing opportunity being offered by the seller, the method comprising:

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- Establishing a communication connection between the seller and the one or more third parties (Roth: abstract);
- Issuing an alert over the established connection to the one or more third parties that the sales transaction is in progress (Kiely: abstract) and a bidding process is open for soliciting one or more bids on at least one of the one or more real-time marketing opportunities (Roth: abstract). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified the method of Roth to have included issuing an alert to a third party during the sale transaction, as taught by Kiely, in order to provide direct marketing access to customers (Kiely: paragraph 4).
- Establishing a time duration for the bidding process associated with the at least one real-time marketing opportunity (Roth: column 7, lines 26 – 33);
- Receiving the one or more bids from the one or more third parties for the at least one real-time marketing opportunity (Roth: abstract).

Referring to claim 2. The combination of Roth and Kiely further discloses a method comprising the steps:

- Issuing an end of bidding alert to the one or more third parties that a winning bid has been received (Roth: column 13, lines 16 – 24);
- Completing the transaction between the seller and the customer for the product including the at least one marketing opportunity (Roth: column 12, line 28 – 40).

Referring to claim 3. The combination of Roth and Kiely further discloses a method wherein the one or more real-time marketing opportunities include an

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opportunity to provide an offer to be included in the transaction for the purchase of the product (Kiely: abstract). Roth teaches providing an advertisement but does not expressly disclose providing a peripheral, a promotion, a download, or an offer. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified the method of Roth to have included providing an offer, as taught by Kiely, in order to provide upsell content to customers (Kiely: paragraphs 13 –15).

Referring to claim 4. Claim 4 is rejected under the same rationale set forth in the rejection of claim 3.

Referring to claims 5 –6. The combination of Roth and Kiely further discloses a method, wherein the step of establishing a communication connection includes:

- Offering general information associated with the one or more real-time marketing opportunities on an Internet site (Roth: abstract) or via a telephone conversation (Kiely: paragraph 24) associated with the seller; and
- Allowing the one or more third parties to establish a communication connection with the seller over the Internet site (Roth: abstract).

It would have been obvious to one of ordinary skill at the time of applicant's invention to have modified the method of Roth to have included communicating via telephone with the seller, as taught by Kiely, in order to allow various methods in which advertisements could be submitted (Kiely: paragraph 24).

Referring to claims 7-18. Claims 7 – 18 are rejected under the same rationale set forth in the rejection of claims 1 – 6. The combination of Roth and Kiely discloses apparatus and articles of manufacture comprising the components disclosed in claims 7 –18.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Eldering (U.S. Patent No. 6,324,519) discloses systems and methods for the auctioning of advertisements.
- Numaoka (U.S. Patent Application Publication No. 2002/0111898) discloses methods and apparatus for auctioning advertisements.
- Sender (U.S. Patent Application Publication No. 2003/0149618) discloses systems and methods allowing advertising content in products.
- Pizaris-Henderson (U.S. Patent Application Publication No. 2003/0220866) discloses systems and methods for pay for performance advertising.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason B. Dunham whose telephone number is 571-272-8109. The examiner can normally be reached on M-F, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-8109. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JBD
Patent Examiner
6/12/06


Primary Examiner